

# DELAWARE APPRAISAL COUNCIL BUZZZZZZZZZZ

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## **ANNUAL SEMINAR**

The annual seminar of the Delaware council was held on September 20 at the Polytech High School in Woodside. About 110 appraisers, division staff and investigators were in attendance. After an introduction of the council members, staff and investigators, the following presentations were given.

## **DIRECTOR OF PROFESSIONAL REGULATION**

Mr. James Collins, the Director of the division gave a presentation on the expanded website. He explained the licensee search, future license renewal, forms on line and many of the other features. One must admit that website is very comprehensive and easy to use. The website address is [www.dpr.delaware.gov](http://www.dpr.delaware.gov).

## **DEPUTY ATTORNEY GENERAL**

Mrs. Sherry Hoffman, Deputy Attorney General assigned to the Council, gave a presentation on the new appraisal statute passed by the General Assembly and signed by the Governor in the last session (HB73). She noted that the Council is no longer under the Real Estate Commission but truly on its own. This new statute necessitates updating the Rules and Regulations. Council is reviewing those at the present time and plans a public hearing in the very near future. Please watch for the notification of the public hearing of the proposed updated Rules and Regulations in local newspapers. A number of changes are in the works. Mrs. Hoffman reminded the group that the Legislature mandated that the Council is to develop standards in cooperation of the Delaware Association of Counties and the Executive Director of the League of Local Governments or his designee for licensing and training of mass appraisers in order for county and municipal assessment departments to be in compliance within three years of the development and adoption of said standards.

## **EARL LOOMIS**

Delaware's premier educator, Earl Loomis, was the main speaker for the morning. He presented an "Overview of the New FNMA 1004 form. From his presentation, all agreed that one must spend a large amount of time studying to be prepared when the new forms are adopted on November 1. FNMA will require them on November 1, 2005, Freddie Mac by January 1, 2006, VA on November 1, 2005 or sooner and FHA by January 1, 2006.

Mention should be made that Earl was honored at last year's seminar for his contribution to the appraisal industry in the State of Delaware and particularly for this educational efforts over the years.

## **Philip McGinnis**

Philip McGinnis was presented a plaque for this contribution to the appraisal council in his service, not only in the past for servicing as a member of Council and Chairman, but also his ongoing assistance and help getting our legislation passed. He has agreed to serve on a committee that will assist the assessors to develop a program for their education and licensing.

## **USPAP QUESTIONS**

### **READDRESSING A REPORT**

After an assignment has been completed and the report delivered, an appraiser might be asked to "readdress" the appraiser or transfer to another party. Does USPAP allow an appraiser to

"readdress" a report by altering it to indicate a new recipient as the client or intended user when the original report was for another party?

Answer: **NO.** Once a report has been prepared for a named client and any other identified intended user and for an intended use, the appraiser cannot "readdress" the report to another party.

### **NEW ASSIGNMENT-STARTING OVER**

Advisory opinions 26 and 27 clarify that I cannot readdress an appraisal and I must treat subsequent requests as a new assignment. Does that mean I must "start from scratch" since I would be performing a new assignment for a different client. Must I re-inspect the property?

**NO.** A new assignment does not mean you must "start from scratch." You must decide the appropriate scope of work for the new assignment. This would include a decision as to whether to perform another inspection. The scope of work for the new assignment can be different from the original scope of work.

As with any assignment, you might be able to use information and analyses developed for a previous assignment. Appraisers are often selected for subsequent assignments specifically because of experience and demonstrated competency of a prior assignment.

One must be mindful of the obligations relating to the use of confidential information as the **Confidentiality** section of the **ETHICS RULE** states:

***An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than the client and persons specifically authorized by the client!***

### **WHAT DO I CHARGE THE SECOND CLIENT FOR THE REPORT?**

The fee for services you charge your client is of no concern of anyone except between you and your client. USPAP does not address fees charged for assignments on any property.

### **READDRESSING WITH LENDER RELEASE**

I am aware of AO-26 and AO-27. (We hope you have thoroughly read these two advisory opinions). Does that guidance still apply if Client A releases me to perform another appraisal, or can I just readdress the report to Lender B since I have obtained a release?

It is never permissible to “readdress” a report by simply changing the client’s name on a completed report, regardless of whether the first client gave a release. The request from Lender B must be treated as a NEW ASSIGNMENT.

As a matter of business practice, some appraisers request a release from a prior client before accepting an assignment to appraise the same property for a new client or to disclose the assignment for the second client to the first client. However, USPAP does not require this. Informing a client about the existence of another client and that the property was appraised for another client may not be compliant with the Confidentiality section of the ETHICS RULE, which states:

***An appraiser must protect the confidential nature of the appraiser-client relationship!***

### **USPAP COMPLIANCE IN RETROSPECTIVE APPRAISALS**

When preparing an assignment with a retrospective date of value, should the appraiser comply with the standards in effect as of the date of the appraisal or as of the date of the report?

Answer: Appraisers must comply with the standards in effect as of the date of the report. Only the data and analyses of that data should be considered on a

retrospective basis, not the standards under which the assignment is performed.

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## **OCC BULLETIN 2006-6**

The Office of the Comptroller of the Currency has posted a bulletin on the website [www.occ.gov](http://www.occ.gov) that features a number of questions related to questions appraisers have been asking regarding existing standards to selecting appraisers, ordering appraisals and other related topics. A few of the more relevant ones have been posted for the newsletter. You are encouraged to go onto the website and review Bulletin OCC 2005-6 dated 3/22/05. A total of twenty eight questions are posted in the bulletin.

**Question: Can a regulated institution accept an appraisal from a prospective borrower and determine its acceptability based on review?**

**Answer: No, a regulated institution may not accept a borrower ordered appraisal.**

**Question: Can a borrower pay the appraiser directly for an appraisal ordered by a lender?**

**Answer: Since the regulated institution has engaged the appraiser for its services, the regulated institution should be the party to remit payment to the appraiser. The regulated institution may seek**

**reimbursement from the borrower for the cost of the appraisal. However, the borrower may not recommend an appraiser to the institution or select the appraiser.**

**Question: A regulated institution plans to make a construction loan to a tract developer to build 10 homes. Is it permissible for the developer to order appraisals on the properties and use them to support the construction loan project? Can the developer select an appraiser from the lender's approved appraisal list and in turn submit the name to potential permanent lenders?**

**Answer: NO. A borrower may not select an appraiser under any circumstances.**

*Conversation with Joe Minnich, Senior Business Manager of Fannie Mae*

**The following is a post on the Appraisers Forum that was a conversation of Barbara Decker-Spence with Joe Minnich of Fannie Mae. Permission was given by all to reproduce for our newsletter. It is presented in its entirety.**

**Barbara says "The text in black is the email I sent to Joe seeking his ok to post my summary of our conversation. The blue text shows the edits he made to this text."**

I spoke with Joe Minnich today at length. For those of you who don't know, Joe was a fee appraiser with his own shop and with others working for him for many years, so he is conversant with the concerns of appraisers. He did tell me that [one](#) of the primary objectives of the new report format was to increase the appraiser's responsibility for their work.

### **Drivebys**

In terms of drivebys, he explained that Fannie is not willing to accept a driveby in cases where the appraiser does not think he has adequate information available via discussions with buyer, seller, agents, borrower, etc , [or other data sources](#) to come to a reliable determination of the condition of the portion of the improvements not visible from the street. I pointed out that the certs say that we have verified all the information with a disinterested party, and that I could see no way to verify things like interior condition with anyone who could be considered "disinterested" in the occurrence of the loan. The conclusion I came away with was that the appraiser needs to decide his/her own comfort level with this exposure and decide to do or not do these reports on that basis. Turns out that Fannie never intended to have driveby's done on properties where you can't clearly see the front of the property or on which the appraiser has inadequate info. So, these aspects of the form are an attempt to resolve this problem. A lender may always submit to Fannie a report that is "more" than DU requires, so they want the appraisers to upgrade these when they are not able to commit to the questions asked on the form.

I did point out that in the real world a client would not be happy to have an appraiser go out to do a driveby or make the phone calls needed to attempt to gain the information and then report that an interior was needed to satisfy appraiser's concerns and that this combination results in 2 trips to the property and a higher fee than if the appraiser had done the interior report in the first place and this is understood. So, it comes down to each of us deciding how to handle this dilemma from a business decision point of view.

### **Drafts and Comments Period**

He pointed out that [they received over 1,000 email comments, although](#) a very, very small percentage of appraiser's [they were important in developing the final version of the report forms](#) . He has all of these printed and in notebooks for reference and has read every one. I told him that my reading of the form draft did not, unfortunately, bring all the problems to my mind. Needed better thinkers and much more time investment to really identify the areas that are of concern to me.

### **Implementation**

He told me that there is no possibility of implementation date being moved back or the form being modified prior to that time.

### **Level of "inspection"**

Turns out that Joe and I have very different expectations on what an appraiser is competent to judge in terms of the mechanicals, structure, etc. When he supervised his own fee shop, he required his appraiser's to be trained in

house [systems and](#) construction, take appropriate classes, learn all they could. I have not done this and do not consider it to be part of my job. Joe's point of view is that if a component is inadequate, it may affect value and I, therefore, need to know. I disagree; sure inadequate electrical service, for example, could affect value, but all by itself, it rarely does in my market. So, personally, I have to decide how much additional knowledge and training I'm willing to pursue to make sure I can adequately handle what I see as a new market expectation. [Barbara- this is not a new market expectation. Determining physical, and functional inadequacies is a fundamental and essential appraisal practice, taught in the very basic appraisal courses.](#)

04-04 says (emphasis mine) "We permit an appraisal to be based upon the "as is" condition of the property as long as any minor conditions, such as deferred maintenance, do not affect the livability, soundness, or structural integrity of the property, and the appraiser's opinion of value reflects the existence of these conditions. Minor conditions and deferred maintenance include worn floor finishes or carpet, minor plumbing leaks, holes in window screens, or cracked window glass. Minor conditions and deferred maintenance are typically due to normal wear and tear from the aging process and the occupancy of the property. Such conditions generally do not rise to the level of a "required repair." Nevertheless, they must be reported."

I think at one point you said you don't really expect that level of detail reported. Can you please clarify this for me, as this announcement (which modified the

selling guide) clearly says it.

[Barbara - On this point I left you with an incomplete answer. As you correctly note, announcement 04-04 does require the reporting of minor conditions and deferred maintenance items. The appraiser must report those items observed during the inspection of the property. The intent here is to provide detail and support for the appraisers overall determination of effective age and condition of the property and assure that these items have been considered in the analysis and conclusions. Keep in mind limiting condition #5 that the appraiser is not responsible for hidden or unapparent items.](#)

### **Reliance on reports**

Evidently, the reliance of other lenders on the reports exists because of certain loans where the amount being borrowed exceeds Fannie's maximum, so the balance is finance as a separate loan with either the same or a different lender. Frankly, this is not of major concern to me personally. [This is not the only reason. The borrower may change lenders, the lender may not be able close a loan and may assign the appraiser to another lender. Both practices are permitted under Title XI and are common in the market place.](#)

Allowing the borrower to rely on the report seems fair to Joe because after all they should be able to recover in the event the appraiser has intentionally inflated the report or otherwise not reported important information. I could agree that in such a case this would be fair. However, I don't think this one very limited example represents the bulk of appraisals done, and I still think this

opens us up to much more liability and that we need to factor it into what we charge. Still big issue in my mind.

He is interested in receiving emails from appraisers with specific concerns and will read and collect such information. I would not recommend sending rants - but actual concern - as this may help us in the future. Barbara Decker-Spence

*EMAIL FROM JOSEPH  
MINNICH*

*In an email last week to me, Joseph Minnich, Senior Business Manager for Fannie Mae and one of the chief authors of the new Appraisal Forms said, at a minimum, appraisers should access [www.efanniemae.com](http://www.efanniemae.com) and select the appraiser link. You will find directions to the Fannie Mae Selling Guide and Lender Announcements. Appraisers should at a minimum, read the Selling Guide, Part XI, Property and Appraisal Guidelines. They should also read Lender Announcements 04-04, 04-05, 04-07 and 05-02. Charles Witt*

**2005 DISCIPLINARY  
ACTIONS**

**Ramon S. Gaber, License # X2-0000209, entered into a consent order that was approved by the Council on Real Estate Appraisers. The terms of the consent order suspend the Delaware license as a Real Estate Appraiser of Mr. Gaber for twelve (12) months beginning November 1, 2005 and also to take the National 15-Hour USPAP class in addition to his regularly required continuing education requirements. This class will include the standard test taken by students. He is to provide completion documentation to Council with a passing grade in the examination. Mr. Gaber admitted to violating of 24 Del. C. § 2938 (6), by willfully disregarding or violating portions of the provisions of this subchapter and regulations of the council for the administration and enforcement of the provisions of this subchapter. Mr. Gaber employed a person who was registered as an appraiser trainee with another appraiser, failed to provide direct supervision of the state licensed trainee and failed to inspect the interior and exterior of the property with the trainee.**

**ALL DISCIPLINARY ACTIONS  
ARE REPORTED TO THE  
APPRAISAL SUBCOMMITTEE OF  
THE APPRAISAL FOUNDATION**

***UNIFORM RESIDENTIAL APPRAISAL REPORT  
FNMA 1004 (March 2005)***

Report form FNMA 1004 (March 2005) is designed to report an appraisal of a one-unit property or a one-unit property with accessory unit including a unit in a planned unit development (PUD) based on an exterior and interior inspection of the subject property. This report is not designed to report an appraisal of a manufactured home or a unit in a condominium or cooperative project.

## **REQUIRED EXHIBITS**

Other than the 1004, the following exhibits are required:

- A street map that shows the location of the subject property and of all comparables used.
- An exterior building sketch of the improvements that indicate the dimensions. The appraiser must also include calculations to show how she or he arrived at the estimate of gross living area. A floor plan sketch that indicates the dimensions is required instead of the exterior building or unit sketch if the floor plan is atypical or functionally obsolete, thus limiting the market appeal for the property in comparison to competitive properties in the neighborhood.
- Clear, descriptive photographs (either in black and white or color) that show the front, back and street scene of the subject property and are appropriately identified. Photographs must be originals that are produced either by photography or electronic imaging.
- Clear, descriptive photographs (either in black and white or color) that show the front of each comparable sale and are appropriately identified. Generally photographs should be originals that are produced by photography or electronic imaging, however, copies of photographs from a multiple listing service or from an appraiser's files, are acceptable if they are clear and descriptive.
- Any other data---as an attachment or addendum to the appraisal report form---that is necessary to provide an adequately supported opinion of value.